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09/945,018	09/01/2001	Craig M. Janik	005532.P007	1644

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EXAMINER

GRIER, LAURA A

ART UNIT	PAPER NUMBER
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2644

DATE MAILED: 01/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/945,018

Applicant(s)

JANIK, CRAIG M.

Examiner

Laura A Grier

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 3 and dependent claims 4-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claim 3 recites the limitation "the first device" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-5, 7-9, 11, 13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Janky in view of Jones, U. S. Patent No. 6175822.

Regarding **claim 1**, Janky et al. (herein, Janky) discloses an enhanced delivery of audio data for portable playback (figures 1, and 3-4). Janky's disclosure comprises an internetwork server (11) for providing digital audio data via a LAN to a PC (computer), which reads on downloading digital audio data, the data is decompressed, there is a D/A converter for converting the digital data into analog electrical data which is transferred to an digital audio playback device (col. 2, lines 1-32 and 42-63 and col. 4, lines 48-51 and col. 9, lines 1-46). However, Janky fails to specifically disclose streaming the analog data to client (herein, audio data transmission). The examiner maintains that such audio data transmission was well known in the art.

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Regarding the audio data transmission, in similar field of endeavor, Jones discloses a system via a network that streams audio data to a client terminal of a multimedia client computer (col. 2, lines 49-54, and col. 5, lines 9-39).

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Janky by implementing audio streaming to a client for the purpose of allowing the user to have control of processing the audio as desired.

Regarding **claim 2**, Janky and Jones disclose everything claimed as applied above (see claim 1). Janky further discloses a user interface (col. 2, lines 52-60), and further, Jones discloses the client terminal having graphical user interface enabling user control (col. 6, lines 31-42), wherein it is obvious that the client includes a audio converter device for changing the audio from digital to analog by the fact that a voice signal may be output via speakers (col. 5, lines 32-39).

Regarding **claim 3**, Janky and Jones disclose everything claimed as applied above (see claim 1). Janky further discloses a PC (col. 2, lines 27-32), and further Jones discloses a client terminal of a multimedia client computer, which obviously indicates that the multimedia computer may be utilized as a home PC.

Regarding **claim 4**, Janky and Jones disclose everything claimed as applied above (see claim 3). Janky further discloses a user interface via a PC (col. 2, lines 27-32 and 52-63), further, Jones discloses the client terminal having graphical user interface enabling user control (col. 6, lines 31-42).

Regarding **claim 5**, Janky and Jones disclose everything claimed as applied above (see claim 3). Janky further discloses the SPU as portable electronic device (abstract and col. 2, lines 1-3, and col. 9, lines 1-21).

Regarding **claim 7**, Janky and Jones disclose everything claimed as applied above (see claim 3). Janky further discloses storage of the digital audio data on the computer system on the hard drive, floppy drive, etc, (col. 5, lines 34-44), which constitutes as a database on a computer system.

Regarding **claims 8 and 9**, Janky and Jones disclose everything claimed as applied above (see claim 3). Janky further discloses the digital data coming from the Internet, which constitutes as the WAN (col. 4, lines 24-37), and as well, Jones discloses the network may be a local area network, wide area network or a combination of such (col. 4, lines 45-53).

Regarding **claims 11 and 13**, Janky and Jones disclose everything claimed as applied above (see claim 3).

Janky further discloses wireless transfer of the audio data, thus a wireless transceiver via a wireless transfer protocol is taught, and as well as the portable digital audio playback device teaches the audio converter with a wireless LAN network adapter as evident by the fact that the a Wireless LAN modem may be used (col. 4, lines 48-63 and col. 2, lines 1-8). And, as well Jones, discloses wireless connections Col. 4, lines 51-53).

6. Regarding **claim 15**, it has been interpreted and thus rejected for the same reasons set forth above in the rejection of **claim 1**. Since **claim 15** discloses a method which corresponds to the apparatus of **claim 1**, the method is obvious in that it simply provides functionality for the logical apparatus implementation found in **claim 1**.

7. **Claims 16-20, 22-24, 26, 28**, are rejected under 35 U.S.C. 103(a) as being unpatentable over Janky in view of Jones

Regarding **claim 16**, Janky et al. (herein, Janky) discloses an enhanced delivery of audio data for portable playback (figures 1, and 3-4). Janky's disclosure inherently supports an audio converter device as evident by the fact that Janky's portable digital audio playback device comprises an internetwork server (11) providing digital audio data via a LAN to a PC (computer), the data is decompressed, a D/A converter for converting the digital data into analog electrical data which is transferred to an digital audio playback device, SPU (col. 2, lines 1-32 and 42-63 and col. 4, lines 48-51 and col. 9, lines 1-46). However, Janky fails to specifically disclose streaming the analog data to client (herein, audio data transmission). The examiner maintains that such audio data transmission was well known in the art.

Regarding the audio data transmission, in similar field of endeavor, Jones discloses a system via a network that streams audio data to a client terminal of a multimedia client computer (col. 2, lines 49-54, and col. 5, lines 9-39).

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Janky by implementing audio streaming to a client for the purpose of allowing the user to have control of processing the audio as desired.

Regarding **claims 17, 18 and 19**, Janky and Jones disclose everything claimed as applied above (see claim 16). Janky further discloses a user interface via a PC (col. 2, lines 27-32 and 52-63), and further, Jones discloses the client terminal having graphical user interface enabling user control (col. 6, lines 31-42), wherein it is obvious that the client includes a audio converter device for changing the audio from digital to analog by the fact that a voice signal may be output via speakers (col. 5, lines 32-39).

Regarding **claim 20**, Janky and Jones disclose everything claimed as applied above (see claim 16). Janky further discloses the SPU as portable electronic device (abstract and col. 2, lines 1-3, and col. 9, lines 1-21).

Regarding **claim 22**, Janky and Jones disclose everything claimed as applied above (see claim 16). Janky further discloses storage of the digital audio data on the computer system on the hard drive, floppy drive, etc, (col. 5, lines 34-44), which constitutes as a database on a computer system.

Regarding **claims 23 and 24**, Janky and Jones disclose everything claimed as applied above (see claim 16). Janky further discloses the digital data coming from the Internet, which constitutes as the WAN (col. 4, lines 24-37), and as well, Jones discloses the network may be a local area network, wide area network or a combination of such (col. 4, lines 45-53).

Regarding **claims 26 and 28**, Janky and Jones disclose everything claimed as applied above (see claim 16). Janky further discloses wireless transfer of the audio data, thus a wireless transceiver via a wireless transfer protocol is taught, and as well as the portable digital audio playback device teaches the audio converter with a wireless LAN network adapter as evident by the fact that the a Wireless LAN modem may be used (col. 4, lines 48-63 and col. 2, lines 1-8). And, as well Jones, discloses wireless connections Col. 4, lines 51-53).

Regarding **claim 32**, Janky and Jones disclose everything claimed as applied above (see claim 16). Janky further indicates the communication links as being various means including telephone lines (col. 2, lines 17-32), and as well, Jones discloses the network may be conventional public switched telephone networks, etc. (col. 4, lines 45-53).

8. Claims 6, 14, 21, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Janky and Jones in view of Adair et al.

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Regarding **claims 6, 14, 21, and 29**, Janky and Jones disclose everything claimed as applied above (see claim 5 13, 16, 20, and 28, respectively). However, Janky and Jones fails to specifically disclose the portable electronic device as a personal digital assistant (PDA). The examiner maintains that a PDA was well known in the art.

Regarding the PDA, in a similar field of endeavor, Adair et al. (herein, Adair) discloses hand-held computers incorporating reduced area imaging devices. Adair discloses the use of a PDA for receiving transmitted or transferred audio data/signal from a PC (computer), figures 4 and 5 and col. 6, lines 38-42 and 19, lines 10-12).

Thus it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Janky and Jones by providing a PDA, a small portable electronic device, for receiving or download audio.

9. **Claims 10, and 25** are rejected under 35 U.S.C. 103(a) as being unpatentable over Janky in view of Jones.

Regarding **claim 10 and 25**, Janky and Jones disclose everything claimed as applied above (see claims 3 and 16, respectively). Janky and Jones disclose everything claimed as applied above (see claim 1 and 16, respectively). Janky discloses that audio transferred to the PC can come for the Internet and as well as other additional data sources (col. 3, lines 61-62). And, Jones discloses that the digital audio files may be stored on a hard disk drive, a removable magnetic disk, a tape or electronic, magnetic, optical or other memory (col. 4, lines 61-66), wherein, the optical memory may constitute as a CD. Thus it would have been obvious to one of the ordinary skill in the art the time the invention was made to modify the invention of Janky by providing a CD for providing digital audio data to be transmitted to the computer, wherein the CD is very commonly used audio storage device for the transmission of audio.

10. **Claims 30-31** are rejected under 35 U.S.C. 103(a) as being unpatentable over Janky and Jones .

Regarding **claims 30-31**, Janky discloses everything claimed as applied above (see claim 16). Janky discloses the transfer connection of the audio data to the SPU via a hardwire or wireless communication internetwork means (col. 2, lines 4-9). And, as well Jones, discloses wireless connections Col. 4, lines 51-53).

Thus it would have been obvious to one of the ordinary skill in the art the time the invention was made to modify the invention of Janky by incorporating transmission means of a AC power lines and/or Ethernet connection for transferring the audio data to the portable device, wherein such means of audio transmission are commonly used in the art.

11. Claims 33-38, and 40-41, 43, 45-46, 48-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Janky and Jones in view of Adair.

Regarding claims 33, 41 and 46 Janky et al. (herein, Janky) discloses an enhanced delivery of audio data for portable playback (figures 1, and 3-4). Janky's disclosure inherently supports an audio converter device as evident by the fact that Janky's portable digital audio playback device comprises an internetwork server (11) for providing digital audio data via a LAN to a PC (computer), the data is decompressed, there is a D/A converter for converting the digital data into analog electrical data which is transferred to an digital audio playback device, SPU, and a microprocessor (55) for implement automatic transfer of the data via software (col. 2, lines 1-32 and 42-63 and col. 4, lines 48-51 and col. 9, lines 1-46). However, Janky fails to specifically disclose streaming the analog data to client (herein, audio data transmission). The examiner maintains that such audio data transmission was well known in the art.

Regarding the audio data transmission, in similar field of endeavor, Jones discloses a system via a network that streams audio data to a client terminal of a multimedia client computer (col. 2, lines 49-54, and col. 5, lines 9-39).

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Janky by implementing audio streaming to a client for the purpose of allowing the user to have control of processing the audio as desired.

However, Janky and Jones fails to specifically disclose the SPU having a transceiver for receiving the data from the computer. The examiner maintains that use of such a transceiver was well known in the art.

Regarding the transceiver, Adair discloses hand-held computers incorporating reduced area imaging devices. Adair discloses the use of a PDA for receiving transmitted or transferred audio data/signal from a PC

(computer), wherein the PDA is a small portable unit (SPU) that includes a transceiver (figures 4 and 5 and col. 6, lines 38-42 and col. 19, lines 10-12, and 26-29).

Thus it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Janky and Jones by providing a small portable electronic device, for receiving or downloading audio.

Regarding **claims 34-35, 43-44**, Janky, Jones and Adair (herein, Janky combination) discloses everything claimed as applied above (see claim 33 and 41, respectively). Janky further discloses a user interface via a PC (col. 2, lines 27-32 and 52-63), and further, Jones discloses the client terminal having graphical user interface enabling user control (col. 6, lines 31-42), wherein it is obvious that the client includes a audio converter device for changing the audio from digital to analog by the fact that a voice signal may be output via speakers (col. 5, lines 32-39).

Regarding **claim 36**, Janky combination discloses everything claimed as applied above (see claim 33 and 41, respectively). Janky further discloses the SPU as portable electronic device (abstract and col. 2, lines 1-3, and col. 9, lines 1-21).

Regarding **claims 37-38, 45 and 49**, Janky combination discloses everything claimed as applied above (see claim 33 and 41, respectively). Adair et al. (herein, Adair) discloses hand-held computers incorporating reduced area imaging devices. Adair discloses the use of a PDA for receiving transmitted or transferred audio data/signal from a PC (computer), figures 4 and 5 and col. 6, lines 38-42 and 19, lines 10-12).

Thus it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Janky and Jones by providing a PDA, a small portable electronic device, for receiving or download audio.

Regarding **claims 40 and 48**, Janky combination discloses everything claimed as applied above (see claim 33 and 41, respectively). Janky further discloses wireless transfer of the audio data, thus a wireless transceiver via a wireless transfer protocol is taught, and as well as the portable digital audio playback device teaches the audio converter with a wireless LAN network adapter as evident by the fact that the a Wireless LAN modem may be used (col. 4, lines 48-63 and col. 2, lines 1-8). And, as well Jones, discloses wireless connections Col. 4, lines 51-53).

12. Claims 12 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Janky.

Regarding claims 12, and 27, Janky discloses everything claimed as applied above (see claim 1 and 16, respectively). Janky further discloses various wireless transfer protocol may be used. Thus it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Janky by providing the IEEE802.11b protocol for the purpose providing optimal audio data transmission as desired.

13. Claim 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over Janky combination.

Regarding claim 47, Janky combination discloses everything claimed as applied above (see claim 41). Janky further discloses various wireless transfer protocol may be used. Thus it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Janky by providing the IEEE802.11b protocol for the purpose providing optimal audio data transmission as desired.

14. Claims 39 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Janky combination.

Regarding claims 39 and 42, Janky combination discloses everything claimed as applied above (see claim 33 and 41, respectively). Janky disclose that used may actuate the playback device. Further, Jones discloses a display with a graphical user interface, in which the controls are manipulated by the user for streaming the audio (col. 6, lines 31-42), indicating a remote controller for sending instructions, therein.

Thus it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Janky combination by incorporating a remote control outputting command signals to a receiver of the device for the purpose of transmitted audio data as needed at the convenience of the user.

Response to Arguments

15. Applicant's arguments with respect to claims 1-49 have been considered but are moot in view of the new ground(s) of rejection.

The applicant's argument are basically directed the fact the prior art of Janky fails to teach streaming audio data to a client. It agreed that Janky does specifically disclose streaming audio to a client,. However, Janky does

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disclose that the user activates the playback device for audio processing via a PC. In support of a specific teaching of streaming audio to a client, with support that user may manipulate the audio processing technique via a graphical user interface, wherein the graphical user interface via a display coupled with the multimedia client computer provides support of remote control by the user, a new reference of prior art has been provided to modify the teachings of Janky, and the other references of prior art.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura A Grier whose telephone number is (703) 306-4819. The examiner can normally be reached on Monday - Friday, 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Forester W. Isen can be reached on (703) 305-4386.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

Or faxed to:

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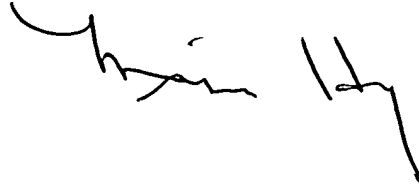
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Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

LAG

December 27, 2003



**MINSUN OH HARVEY
PRIMARY EXAMINER**